

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**JAMES D. MYERS,**

**Plaintiff,**

**v.**

**Case No.: 2:19-cv-2060  
JUDGE GEORGE C. SMITH  
Magistrate Judge Jolson**

**COMMISSIONER OF SOCIAL SECURITY,**

**Defendant.**

**ORDER**

This case is before the Court to consider the *Report and Recommendation* issued by the Magistrate Judge on December 23, 2019. The Magistrate Judge recommended that Plaintiff's Statement of Errors be overruled, the decision of the Commissioner of Social Security be affirmed, and that judgment be entered in favor of Defendant, the Commissioner of Social Security. (Doc. 12). This matter is now before the Court on Plaintiff's Objections to the Magistrate Judge's *Report and Recommendation*. (Doc. 13). The Court will consider the matter *de novo*. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Plaintiff raises two main objections to the Magistrate Judge's *Report and Recommendation* and also urges the Court to review all the arguments set forth in detail in the Statement of Specific Errors. In the first objection, Plaintiff argues that the ALJ failed to properly evaluate the opinions of the physical consultative examiners hired by Social Security. Specifically, Plaintiff asserts that the Magistrate Judge did not explain why Dr. Sethi's opinions

received lesser weight. Plaintiff argues that upon finding that Dr. Sethi's opinions were vague, the ALJ should have contacted Dr. Sethi to obtain further clarification.

The Court has carefully considered Plaintiff's arguments, but ultimately agrees with the Magistrate Judge's conclusion that the ALJ was not required to give "good reasons" for discounting the opinion of Dr. Sethi because neither Dr. Sethi nor Dr. Schmitt were treating sources. *See Martin v. Comm'r of Soc. Sec.*, 658 F. App'x 255, 259 (6th Cir. 2016). Further, it is clear that the ALJ thoroughly reviewed the record and provided sufficient explanation regarding the weight given, specifically explaining that the opinions were discounted because they were inconsistent with both the record and Plaintiff's reports of daily activities. (Tr. 458–59).

In his second objection, Plaintiff argues that the ALJ failed to properly account for the limitations opined by the state agency psychologists. There is no dispute that the ALJ gave "great" weight to the opinions of the state agency psychologists, concluding that their opinions were largely supported by the record. Plaintiff takes issue with the ALJ omitting a specific functional limitation from the residual functional capacity and failed to explain why that opinion was excluded.

The Magistrate Judge noted, and this Court affirms, that the ALJ need not explain every omitted restriction from a non-treating physician's opinion. Therefore, for the reasons stated in the well-reasoned *Report and Recommendation*, this Court finds that Plaintiff's objections are without merit.

Based on the aforementioned and the detailed *Report and Recommendation*, the Court finds that Plaintiff's objections have been thoroughly considered and are hereby **OVERRULED**. Accordingly, the *Report and Recommendation*, Document 12, is **ADOPTED** and **AFFIRMED**.

The Clerk shall remove Documents 12 and 13 from the Court's pending motions list and enter final judgment in favor of Defendant, the Commissioner of Social Security.

**IT IS SO ORDERED.**

/s/ *George C. Smith*  
**GEORGE C. SMITH, JUDGE**  
**UNITED STATES DISTRICT COURT**

